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Attorneys for Defendant
SPROUTS FARMERS MARKET, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION

ROBERT COHEN, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

SPROUTS FARMERS MARKET, INC.,
and DOES 1 through 10, inclusive, and
each of them.

Defendants.

CASE NO.: 8:22-cv-01837 DOC (DFMx)

Honorable David O. Carter
Courtroom 10 A

**NOTICE OF MOTION AND MOTION
OF DEFENDANT SPROUTS
FARMERS MARKET, INC. TO
DISMISS PLAINTIFF'S FIRST
AMENDED COMPLAINT**

[Filed concurrently with Memorandum of Points and Authorities, Declaration of Brandon Lombardi, and [Proposed] Order]

Date: January 9, 2023

Time: 8:30 a.m.

Place: Courtroom 10A

**411 W. 4th Street
Santa Ana, CA 92701**

Complaint Filed: September 6, 2022
Action Removed: November 7, 2022
Trial Date: None Set

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** on January 9, 2023 at 8:30 a.m., or as soon
3 thereafter as the matter may be heard, in Courtroom 10 A of the above-entitled court
4 located at 411 West 4th Street, Room 1053, Santa Ana, CA 92701, before the Honorable
5 David O. Carter, Defendant Sprouts Farmers Market, Inc. (“Defendant” or “Sprouts”) will,
6 and hereby does, move this Court for an order dismissing the First Amended Complaint
7 filed by Plaintiff Robert Cohen (“Plaintiff”) in its entirety pursuant to Federal Rules of
8 Civil Procedure 12(b)(6) and 12(b)(2) on the following grounds:

9 1. Plaintiff’s First Amended Complaint fails to state a claim upon which relief
10 can be granted pursuant to Rule 12(b)(6) because the conduct alleged—that Defendant
11 printed the first six and last four digits of Plaintiff’s credit or debit card numbers on his
12 receipts—does not constitute a violation of the Fair and Accurate Credit Transactions Act,
13 15 U.S.C. § 1681(c)(g)(1) (“FACTA”).

14 2. Plaintiff’s claim for knowing FACTA violations fails to state a claim upon
15 which relief can be granted pursuant to Rule 12(b)(6) because the boilerplate allegations
16 speculating that Defendant knew of the existence of FACTA but did not take sufficient
17 steps to ensure no violations would occur are insufficient to plead the required willfulness.

18 3. The Court lacks personal jurisdiction to decide the claims for FACTA
19 violations that Plaintiff seeks to assert on behalf of unnamed non-California class
20 members, pursuant to Rule 12(b)(2), because Defendant is not subject to California’s
21 general jurisdiction, nor can there be subject matter jurisdiction over these class members’
22 claims based on alleged wrongful conduct occurring entirely outside of California.

23 This Motion is based on this Notice of Motion and Motion; the contemporaneously-
24 filed Memorandum of Points and Authorities; Declaration of Brandon Lombardi; all other
25 pleadings, papers, and records on file in this action; and such other written and oral
26 arguments as may be presented to the Court at the hearing on this matter.

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1 This Motion is being made following the conference of counsel pursuant to Local
2 Rule 7-3, which took place on November 21, 2022. The parties were unable to resolve the
3 issues raised herein.

4
5 DATED: November 28, 2022

DORSEY & WHITNEY LLP

6 By: /s/Faisal M. Zubairi
7 FAISAL M. ZUBAIRI
ISAAC M. GABRIEL
NAVDEEP K. SINGH
JESSICA M. LEANO
8 Attorneys for Defendant
9 SPROUTS FARMERS MARKET, INC.

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CERTIFICATE OF SERVICE

*Robert Cohen v. Sprouts Farmers Market, Inc.,
United States District Court for the Central District of California
Case No.: 8:22-cv-01837 DOC (DFMx)*

I hereby certify on November 28, 2022, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, Central District of California by using the CM/ECF System.

Participants in the case who are registered CM/ECF Users will be automatically served by the CM/ECF System.

DATED: November 28, 2022

DORSEY & WHITNEY LLP

By: /s/Faisal M. Zubairi
Faisal M. Zubairi